

Minutes of the Planning Commission meeting held on Thursday, July 16, 2009 at 6:30 p.m. in the Murray City Municipal Council Chambers, 5025 South State Street, Murray, Utah.

Present: Jeff Evans, Chair
 Jim Harland, Vice-Chair
 Karen Daniels
 Sheri Van Bibber
 Kurtis Aoki
 Ray Black
 Tim Taylor
 Tim Tingey, Community & Economic Development Director
 Chad Wilkinson, City Planner
 G.L. Critchfield, Deputy City Attorney
 Citizens

The Staff Review meeting was held from 6:00 to 6:30 p.m. The Planning Commission members briefly reviewed the applications on the agenda. An audio recording of this is available at the Murray City Community and Economic Development Department.

Jeff Evans opened the meeting and welcomed those present.

APPROVAL OF MINUTES

Tim Taylor made a motion to approve the minutes from July 2, 2009. Seconded by Sheri Van Bibber.

A voice vote was made. The minutes were approved unanimously, 7-0.

CONFLICT OF INTEREST

There were no conflicts of interest noted regarding this agenda.

APPROVAL OF FINDINGS OF FACT

Jim Harland made a motion to approve the Findings of Fact for Conditional Use Permits for Aire-Flo Heating and Air Conditioning, Discovery Cove P.U.D., and the amended P.U.D. for the Center Court Townhomes. Seconded by Karen Daniels.

A voice vote was made. The Findings of Fact were approved unanimously, 7-0.

OLYMPUS VIEW AMENDED PLAT – 1400 & 1408 East 5935 South, Project #09-49

Brent Hilton, 1400 East 5935 South, was the applicant present to represent this request. Chad Wilkinson reviewed the location and request for a Subdivision Amended Plat. The property is zoned R-1-10 and is surrounded on all sides by the same zone. In 2005 an existing pedestrian easement was abandoned. Half of the 6 foot easement went to each of the adjacent property owners. Mr. Hilton is interested in including the entire 6 foot abandoned easement into his property. This has been discussed between the property owners and they are in agreement. The map will amend the subdivision plat to include the entire 6 foot pedestrian easement as part of lot #23. Staff is recommending approval of the subdivision amendment.

Tim Taylor asked if there was a similar situation across the street. Mr. Wilkinson responded that there is an easement there, but it is not clear if it has been abandoned. Mr. Taylor stated that it made sense that this easement was abandoned as homes have been built behind it and there is not a through access.

Brent Hilton stated that the easement to the north hasn't been abandoned because High School students still use the walkway. The easement on the south is the one that's blocked off. He has obtained a quit claim deed from his neighbor to the east because she doesn't want to move her fence line. Mr. Hilton verified that he has received a copy of the staff report and will comply with the conditions.

There were no public comments related to this item.

Tim Taylor made a motion to approve the subdivision amended plat for the properties addressed 1400 and 1408 East 5935 South, subject to conditions:

1. Meet the requirements of the Murray City Engineer for the recording of the plat at the Salt Lake County Records Office.
2. The quit claim deed from the property to the east will need to be recorded prior to the amended subdivision plat.

Seconded by Karen Daniels.

Call vote recorded by Tim Tingey.

A Mr. Taylor
A Mr. Aoki
A Ms. Daniels
A Mr. Harland
A Ms. Van Bibber
A Mr. Evans
A Mr. Black

Motion passed, 7-0.

LAND USE ORDINANCE TEXT AMENDMENT – ACCESSORY DWELLING UNITS,
Project #09-47

Chad Wilkinson provided a brief background regarding the proposal of this ordinance. The purpose of the new ordinance is to provide a new chapter for zoning to allow for accessory dwelling units in all single family residential zones. Accessory dwelling units are independent dwelling units located within a single family residence or located on the same property in a detached structure. There have been numerous inquiries from people that want to create an independent living space, including kitchen and laundry facilities, for a close relative such as an elderly parent or recently divorced child. The Code currently allows for only one kitchen per single family residence. There have been other inquiries from residents that would like to use the option of a secondary dwelling unit as a supplement to their income and to offset the costs of home ownership. The

General Plan promotes the modification of the Code to create opportunities for additional affordable housing, and specifically states that there should be flexibility within the single family residential zone to allow for different housing options. In reviewing this ordinance, staff determined that it is vitally important to maintain the single family, residential character of these neighborhoods.

Mr. Wilkinson explained the key elements contained in the proposed ordinance. The first is that owner/occupancy is required, meaning that the owner of the property must live in either the primary or accessory unit as their principal residence. There are some methods for determining principal residency built in to the ordinance. The resident would be required to complete the Conditional Use Permit process. By going through this process the applicant would appear before the Planning Commission, and a public notice would be sent to the neighboring property owners who would then have an opportunity to voice their concerns or support of the potential accessory dwelling unit.

In order to protect the residential character of neighborhoods, the size of the units will be limited to either 40% of the square footage of the residence, or 1000 square feet, whichever is less. There is an additional parking requirement for accessory dwelling units, and the number of people is limited. If the units are detached, there will be a minimum lot size of 12,000 square feet regardless of the underlying zone, and the unit will be subject to standards related to setback, size and height. Separate utility and sewer services will not be allowed.

Staff is recommending that the Planning Commission forward a recommendation of approval to the City Council for the requested amendment to the zoning ordinance, adding Chapter 17.78, titled Accessory Dwelling Units.

Jeff Evans asked Mr. Wilkinson to clarify if the lot square footage applies in all situations or just when there is a detached unit. Mr. Wilkinson responded that it would only apply when there is a detached unit. Mr. Evans requested that Mr. Wilkinson provide some of the examples that prompted staff to propose this amendment. Mr. Wilkinson responded that applications are submitted quite often from residents that want to have a second unit in their basement. Right now the applicants are required to remove any indication of a second unit and must sign an affidavit that indicates they will not have a second unit on the property. A recent example is a property owner that was housing her mother in a detached unit. Her mother had to be evicted from the unit and the structure had to be turned back to a garage. It was a controversial and emotional situation, which led staff to consider ways to help people with legitimate needs to apply for an accessory dwelling unit. There are a number of residents that have illegal accessory dwellings, so staff would like to give people an opportunity to make these units legal.

Mel Vanden Akker, 264 East 4800 South, stated that he appreciates the clarification offered on accessory dwelling units. He still has reservations about allowing these units. Someone that has a large backyard and doesn't want to maintain it may decide to build a unit there instead. Mr. Vanden Akker stated there still seems to be some loose ends, such as stating specifically that the unit must be residential. Planning Commission members clarified that the ordinance states that only one unit is allowed and it must be residential, and there was brief discussion on lot and unit size requirements.

Kendyl Bench, 39 West 5878 South, stated that she and her husband purchased their home in September. They had hoped to put an apartment in their basement in order to help with expenses. Her husband was recently laid off, and now there is a chance they may lose their home. Ms. Bench was very hopeful that this ordinance would pass so that they would have the opportunity to rent their basement and hopefully be able to stay in their home. She stated that if a home is owner occupied the owner will choose good people as renters. Ms. Bench stated that the standards, such as off road parking, are fair and would be met. Tim Taylor asked Ms. Bench if her property meets all of the requirements. She responded that it does.

Andy Kelsch, 6001 South 700 West, asked about the height requirements. He would like to build on top of his garage, and eventually on top of his house. Mr. Kelsch plans on staying in the area for the rest of his life. He stated that if he built on top of his garage now, he could live in it while he was remodeling his house. The Commission members advised him that there could be some other issues with that plan. Mr. Kelsch also asked how long a renter could stay if the owner moved off the property. He was advised that the renter would need to leave immediately.

Chad Wilkinson responded to the questions posed by the public. There will only be one accessory dwelling allowed per property address. The nature of the ordinance is not to create a new zone district, but to remain single family zoning. Mr. Wilkinson stated that in drafting this ordinance staff has studied and interviewed a number of different communities that have accessory dwelling ordinances, and carefully considered what seemed to work and what didn't work well in those areas. As the Code is currently written any accessory structure has a height limit of 20 feet or the height of the building, whichever is less. For example, if the principal structure is 15 feet, the accessory structure cannot exceed 15 feet. The intent is not to have structures built on top of garages. The ordinance also contains a recommendation that a detached accessory structure is only one story above the ground.

Tim Taylor asked if someone had a two story home if it would be prohibited to add an outside entrance to the upper level and rent that portion out. Mr. Wilkinson stated that the ordinance doesn't limit the size of a single family home, and a single family home could be designed to have an accessory dwelling unit on a second story. The single story recommendation pertains to detached accessory structures.

Sheri Van Bibber stated that it may be easier for people to build on top of a garage in order to maintain the necessary parking that is required for the home and accessory unit. Mr. Wilkinson stated that off street parking spaces will need to be provided somewhere on the lot if the garage is converted to an accessory dwelling.

Mr. Wilkinson stated that in the event of an owner moving, there is a mechanism in place that would allow a new owner to continue the use of a secondary dwelling unit. However, if the new owner opts not to continue that use, the secondary unit must be vacated immediately.

Sheri Van Bibber asked when this issue will go before the City Council. Mr. Wilkinson responded that it would be near the end of August. Mr. Wilkinson reminded those

present that the Planning Commission is acting as a recommendation body to the City Council.

Tim Taylor asked why the ordinance states that on street parking needs to be reserved for visitors only. Mr. Wilkinson responded that the intent is to clarify that on street parking is not meant for the residents of the home and will not count towards the number of parking spaces required for the home. Parking could become an issue in these situations and staff wants to ensure that it is clearly addressed. Mr. Taylor asked if any other municipalities noted problems with parking related to their accessory dwelling units. Mr. Wilkinson responded that there were parking problems noted in college towns but not so much in other communities. Mr. Taylor stated that he didn't want to see the City have to become involved in disputes between neighbors about parking problems. Ms. Van Bibber stated that when a resident comes in for a Conditional Use Permit, parking should always be a topic of discussion. Mr. Harland asked if other communities that have accessory dwelling ordinances in place have similar provisions. Mr. Wilkinson responded that a number of other communities have these provisions in place.

Mr. Harland asked about residents that already have illegal accessory dwelling units and how that situation will be handled. Mr. Wilkinson responded that those residents will now have an opportunity to make the units legal by showing that they meet the requirements and complete the conditional use process. There will also be active enforcement by the City. If the standards are not met, people will have the opportunity to apply for variances, however a stipulation has been added that variances cannot be given related to the owner occupancy provision or the number of units per property. Mr. Wilkinson stated that he foresees two different types of units coming in for variances. One would be an existing non-conforming unit, and the other would be an illegal conversion unit.

Mr. Wilkinson stated that a question arose about converting only a portion of a basement. Staff has concluded that this would be acceptable as long as the principal unit has access to the portion of the basement that is not included in the accessory unit.

Kurtis Aoki asked about irregularly shaped lots, such as narrow, deep lots and if there is a maximum size lot. He questioned the possibility of properties turning into flag lots. Mr. Wilkinson responded that minimum lot size is 12,000 square feet. Mr. Aoki asked how this ordinance would apply if someone converted a portion of a garage into a unit, but the size of the entire garage exceeded the 40% square footage of the primary unit. Mr. Wilkinson responded that he interprets the ordinance to mean the entire structure cannot exceed 40%, and that this wording should be clarified in the ordinance.

Mr. Harland asked if this ordinance would apply in a situation where someone was renting out rooms. Mr. Wilkinson responded that the current ordinance addresses situation concerning the number of unrelated individuals sharing a home. There can be up to three unrelated individuals in a home, but there cannot be separate cooking facilities.

Mr. Evans asked about Standard Q as noted in the proposed ordinance. He stated it seemed to be a broad statement regarding the Planning Commission's role in this process. Mr. Wilkinson responded that Sandy City has a similar standard, and the

purpose is to reiterate the Planning Commission's ability to add conditions in the event of unforeseeable circumstances. Mr. Harland stated that the Land Use Act indicates conditions can be made for protecting public safety, welfare and the single family character of the neighborhood.

Mr. Wilkinson stated that this ordinance has been reviewed by Murray City's Building, Engineering and Fire Departments, all of the Planners and two interns. Everyone has provided valuable input and is appreciated.

Andy Kelsch asked some more questions regarding height restrictions and his options for building on top of his garage, such as for a game room. Karen Daniels stated that in her neighborhood a structure was built that does not conform to the ordinances and it has blocked the view for a number of other homes. The neighbors are all upset about the situation. Mr. Kelsch stated that he has a neighbor across the street that has a two story home and a large garage behind it, so if he built up his home it would not be different from his neighbor's. Mr. Wilkinson stated that zoning only allows for a one story detached garage, so a game room above a detached garage would not be permitted. A person always has the option to apply for a variance through the Board of Adjustment, but one must show that there is something unique about the property or that a hardship exists to justify a variance.

Mr. Harland asked if a loft is considered a second story. Mr. Wilkinson responded that there is a specific definition for a loft, which is that at least two of the walls have to be less than 4 feet. If there are three walls that exceed 4 feet in height, it is considered an additional story.

Mr. Wilkinson clarified that Mr. Aoki's recommended modification would be that the entire detached structure cannot exceed 1000 square feet, not just the unit, and that the unit cannot exceed 40% of the primary structure's square feet. Mr. Aoki confirmed that recommendation.

Sheri Van Bibber made a motion to send a positive recommendation of approval to the City Council for the requested amendment to the zoning ordinance, adding Chapter 17.78, titled Accessory Dwelling Units, with the addition of Mr. Aoki's suggested language clarification.

Seconded by Kurtis Aoki.

Call vote recorded by Tim Tingey.

A Mr. Taylor
A Mr. Aoki
A Ms. Daniels
A Mr. Harland
A Ms. Van Bibber
A Mr. Evans
A Mr. Black

Motion passed, 7-0.

OTHER BUSINESS

Tim Tingey presented a mixed use rezone update. Staff has been evaluating the current ordinance and determining what additions need to be made to address the concerns of property owners in the area. There will soon be a completed ordinance to present to the Planning Commission followed by a presentation to the City Council. The current plan is to bring forward the ordinance at the same time that the mixed use boundary modifications are proposed. There will be some upcoming neighborhood and public input meetings that property owners are invited to attend. These meetings should take place near the end of August, and staff plans to have a proposal ready in the fall.

Tim Tingey provided an update on Murray planning projects. The downtown redevelopment planning effort is an exciting prospect for the City to increase density and change the entire layout of the downtown to develop an urban core. Both the City and the Redevelopment Agency have a number of issues to address, such as ordinance changes, boundary adjustments and rezoning. Mr. Tingey anticipated that the Planning Commission would be invited to a crucial meeting in September to provide input regarding some of the changes in the downtown area. The zoning and ordinance changes are expected to be completed between October and December. As staff has been considering the vision for the downtown, specifically the elements of the downtown historic overlay district, an issue has arisen regarding the DHOD boundary. It is important to create a unique identity for the urban core area. A boundary adjustment has been suggested near 4800 South so that there is a distinct area on State Street for the DHOD. This would create a better aesthetic transition into the core and more clearly define the density of the area.

Jeff Evans asked Mr. Tingey to explain the DHOD zone to the public in attendance. Mr. Tingey stated that the DHOD is the Downtown Historic Overlay District. There are contributing historic buildings, non-contributing buildings and significant buildings in the area. In order to make any changes to the area a process must be completed. There are protections in place for historically significant buildings. Design standards in this area are more stringent.

Mr. Tingey stated that there is some pressure from businesses on the north end of the DHOD to adjust the boundaries so that their business is removed. Planning Commission members discussed the particular area near 4800 South, specifically what historical buildings need to be preserved. Mr. Tingey clarified that the changes occurring in the urban core are not only about historic preservation, but include defining the physical image and urban core of the community. Ms. Van Bibber asked if the vision is similar to the Sugarhouse area. Mr. Tingey stated that the image for Murray will be different. It starts with the Intermountain Medical Center, and will progress to have a dense core of residential, commercial and professional offices that compliment the Medical Center.

Mr. Harland asked what the Historical Committee thinks of this new proposed image. Mr. Tingey stated that they have requested more details about the vision before any recommendation is made regarding the boundary adjustment. Ms. Van Bibber stated that the Historical Committee is a recommendation body. Mr. Tingey stated that when

the final plan is presented, the Historical Committee's recommendation will be presented as well.

Ms. Daniels asked the status of the non-profit affordable housing project. Mr. Tingey stated that a proposal was made at the City Council Committee of the Whole meeting to provide additional funding for the purpose of obtaining additional staff time to focus on the housing study. This recommendation is being considered at the first meeting in August. Ms. Van Bibber asked if there is any stimulus money for this project. Mr. Tingey responded that there may be some opportunities for stimulus funds in the future. He has spoken with Neighborworks of America to discuss their involvement.

Mr. Tingey stated that with the tight budget year, there is not a lot of funding available for travel. Training opportunities will still be available but mostly in our local area. The Utah Planning Association will be having their annual conference in October in Ogden, and there will be a number of other training opportunities in Salt Lake City.

Sheri Van Bibber asked if the City is considering an ordinance similar to West Valley City concerning inoperable vehicles. Mr. Tingey responded that there are Salt Lake County Health ordinances included as part of the City code. There have been a number of enforcement issues over the past year addressing these concerns. There will be a discussion regarding property management at the next Committee of the Whole meeting, and staff has been asked to participate. Mr. Black asked how many cars are allowed to park on a single property. Mr. Tingey responded that if the vehicles are not operable there isn't a specified limit.

Ms. Van Bibber stated that there is an easement on 5572 Avalon Street that was recently boarded up. It used to be a walk through. A number of neighbors have asked Ms. Van Bibber the situation with the easement. Mr. Tingey stated that those questions should be referred to the Community Development Department for a response.

Mr. Aoki stated that during the recent city tour, it was discussed that a shipping container structure was being considered near the Hamlet development. Mr. Aoki wants to ensure that all developers are expected to meet the same high standards and protect the interests of the local residents and property owners. Mr. Evans stated that there are guidelines in place to ensure that standards are met. Mr. Tingey stated that normally these structures are built in redevelopment areas, and in that situation the Redevelopment Agency has control of the design. Mr. Evans explained to the public that the area being discussed is located in the transit oriented district, which is near the northern TRAX stop at 4500 South. There are design guidelines in place to make these areas pedestrian friendly.

Meeting adjourned.